



CENTER FOR CAPITAL MARKETS COMPETITIVENESS

DAVID T. HIRSCHMANN
PRESIDENT AND CHIEF EXECUTIVE OFFICER

1615 H STREET, NW
WASHINGTON, DC 20062-2000
(202) 463-5609 | (202) 463-3129 Fax

December 22, 2010

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue, NW
Washington, DC 20551

Via email: regs.comments@federalreserve.gov

Re: **Amendments to Regulation Z – Proposed Rule R-1390**

Dear Ms. Johnson:

The U.S. Chamber of Commerce (“Chamber”) is the world’s largest business federation representing more than three million companies of every size, sector, and region. The Chamber’s Center for Capital Markets Competitiveness (“CCMC”) works to ensure that our nation’s capital markets are the most fair, efficient, and innovative in the world. The CCMC supports the Federal Reserve Board’s (“Board”) efforts to protect consumers and increase transparency of credit protection products. However, the proposed changes found in Rule R-1390 (“the Rule”) that amend Regulation Z of the Truth and Lending Act (“TILA”) go beyond providing meaningful disclosures and attempt to influence consumer choice by discouraging the purchase of credit insurance.

The CCMC supports the Board’s goal of enhanced consumer protection through increased transparency of credit protection products. However, it appears that the model disclosure form included in the proposed rules attempts to influence the consumer not to purchase credit insurance through a negative portrayal of payment protection products.¹ Furthermore, the proposed model disclosure form fails to present the benefits that credit protection provides to consumers. As a federal regulator, the Board’s role is not to pick winners and losers among financial products,

¹ Examples of such negative language include, “**You may not receive any benefits from this product.**” and “You do **not** have to buy Credit Life Insurance to get this line of credit.”

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but rather to ensure that consumers are protected through meaningful and fair disclosures. Moreover, we are concerned that the Board is attempting to supplant the role of the state departments of insurance as regulators of credit insurance products in clear contradiction of Congressional intent.

Payment Protection Products Serve a Beneficial Purpose

Payment protection products help consumers safeguard themselves from contingencies that may cause them to default on their loan obligations or worse, be forced to declare bankruptcy. Credit insurance can protect consumers or their loved ones from unexpected events such as loss of life, disability or unemployment. Millions of Americans are currently without health insurance. This deficiency leaves families vulnerable to higher rates of bankruptcy for households struck by illness or injury. Clearly, Americans can benefit from better insurance coverage, and credit insurance policies provide one way of addressing this need.

The Proposed Model Disclosure Form Provides Misleading Information

The proposed model disclosure form includes the statement "Other types of insurance can give you similar benefits and are often less expensive" which is inaccurate and misleading. Credit insurance serves a very specific purpose. It allows a consumer to acquire protection for the amount of the loan, in amounts as low as hundreds or thousands of dollars. Other life insurance products, such as term life, are typically unavailable in amounts of less than \$50,000, and are unaffordable for many consumers. While premium costs per thousand dollars of coverage are similar for term life and credit insurance, the overall cost for credit insurance may be lower in cases where the loan amount is less than \$50,000. Therefore, there is no product in the marketplace that provides comparable benefits at the same policy level at which credit insurance is offered. Unsophisticated consumers may be confused by the statement in the disclosure and forgo buying important protection believing that they can get protection from these other sources which may not be the case. In fact, some consumers with medical issues who shop around for individual life insurance may find themselves ineligible for coverage due to their health condition or find it more expensive than credit insurance.

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Additionally, the proposed model disclosure form states in bold and underlined text “You may not receive any benefits even if you buy this product.” However, the box does not give any indication of the circumstances in which this could occur. Obviously, if you outlive the life of the loan, you will not receive an insurance payout. The text implies that companies will find ways to weasel out of legitimate claims, or that the insurance has no value if death or disability does not occur, which is unfair and biased. Insurance is a promise to pay upon an insured event. Coverage provides the insured with peace of mind that financial risks are covered if an unfortunate event occurs. No one hopes to die or become disabled, but these life and disability policies still provide great value to those that are insured by them, whether or not the covered event occurs.

Requiring disclosure language that biases a customer against buying a product not only overreaches the Board’s authority as an independent regulator, but also subverts the intended purpose of TILA, which is to provide customers with meaningful information they can use to make informed financial decisions. Instead of improving consumer understanding of debt protection products, the disclosure all but sways the consumer against the purchasing credit protection. Indeed, in the Fed’s study, all but one of the respondents indicated that they would not buy this protection after looking at the disclosure. This shows the extremely biased nature of the disclosure.²

Conflicts with Existing State and Federal Law and Congressional Intent

Consumers who choose to avail themselves of debt protection products already benefit from regulation and consumer protections provided at the State and Federal level. As an insurance product, consumer credit insurance is regulated in all 50 states by the respective State Department of Insurance. Additionally, debt protection products are regulated by the Office of the Comptroller of the Currency, Office of Thrift Supervision, National Credit Union Administration, and state banking or state financial institution regulators. At a minimum, the disregard for state and federal insurance lending laws will result in significant regulatory overlap and confusion.

² http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20100816_MacroBOGReportOtherDisclosures%287-10%29%28FINAL%29.pdf, page 16.

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Despite the abundance of existing regulation, the Board is proposing changes that may raise legal conflicts and preemption questions. During the debate on the Dodd-Frank Wall Street Reform and Consumer Protection Act, Congress intentionally omitted the business of insurance from the purview of the Consumer Financial Protection Bureau in the Moore-Paulson Amendment. Additionally, the McCarren-Ferguson Act protects states' rights to regulate the business of insurance from being preempted by federal law. Thus, the Board may be encroaching into an area beyond its jurisdiction.

The CCMC is dedicated to working with the Chamber's diverse membership to offer the Federal Reserve Board broad-based input concerning how to provide consumers with meaningful disclosure on financial products. In its current form, Rule R-1390 arbitrarily and improperly discourages the purchase of credit protection products and raises issues of legal conflicts and preemption. Accordingly, we request the Board to remove all reference to credit insurance, debt suspension and debt cancellation products from the Proposed Rule.

We would be happy to discuss these issues further with you or the appropriate staff.

Sincerely,

A handwritten signature in black ink, appearing to read "David T. Hirschmann". The signature is fluid and cursive, with the first name "David" being more prominent.

David T. Hirschmann